

## REMARKS

Claims 1-34 are pending in the present application. In an Office Action dated August 18, 2003, the Examiner withdraws all previous drawing objections and all 35 U.S.C. §112 rejections and indicates that claims 1-18, 20, and 30 contain subject matter allowable to Applicant. (Office Action, Item 9, p9-10.) However, the Examiner further indicates that claims 19, 21-29, and 31-34 remain variously rejected on prior art grounds under 35 U.S.C. §§ 102 and 103. (Office Action, p3-7.) Additionally, the Examiner takes objection to several formalities of the reissue application. (Office Action, p2.)

Applicant appreciates the interview concerning the present application conducted 10 November 2003 at the USPTO between the Examiner and Applicant's attorney. In the interview, independent claims 19 and 27 were discussed, along with their outstanding obviousness rejections, and U.S. Patent No. 3,582,000 to Werkmeister. As indicated on the Interview Summary sheet (PTOL-413) in the present file, Applicant explained in the interview that the carriage disclosed by the Werkmeister reference is fixed and not slidable nor supported for any type of translatory motion. In response, the Examiner stated that the carriage is secured to a carrier 1 but admitted that the slidability of the carriage, at the time of the interview, was uncertain. Thus, the Examiner stated that clarification of the functioning of the Werkmeister carriage is required. Here, Applicant provides the requested clarification.

Applicant now addresses in turn the issues raised in the outstanding Office Action.

### Objections to the Reissue Application

The reissue oath/declaration is rendered defective by the Examiner for lack of alleged required language. Particularly, a statement pertaining to errors in the original patent sought to be corrected in the present reissue application is allegedly absent from the original reissue declaration. Accordingly, the Examiner requires submission of a supplemental reissue oath/declaration.

To address the Examiner's concerns, a supplemental reissue declaration, including the language quoted in the August 12th Office Action, is being submitted under separate cover. Thusly, withdrawal of the rejection of claims 1-34 on grounds of defective reissue declaration is respectfully requested.

#### Rejections under 35 U.S.C. §102

Claims 19, 22, 23, 25-29, 32, and 33 are presently rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,582,000 to Werkmeister et al. In reply, Applicant asserts that Werkmeister fails to teach each and every limitation recited in the rejected claims. Accordingly, the outstanding novelty rejection is improper and must be withdrawn. Further, Werkmeister explicitly teaches away from Applicant's invention, thus, the reference does not teach and, further, does not even suggest the claimed invention.

Regarding claim 19, a device is recited for the advancement of bars in automatic loaders associated with a bar loading system. The device comprises, *inter alia*, "a carriage having grip elements for the bar to be advanced, said carriage being slidably actuated between an initial position, where said grip elements are actuated so as to grip the bar deposited thereon and a final position, where said bar is released by said grip elements after inserting the bar in the collet and into the spindle of the automatic lathe." (Emphasis added.) As will be shown herein, the Werkmeister reference at least does not teach or even suggest the above-highlighted limitations of Applicant's claim 19.

A non-limiting exemplary embodiment of a device according to Applicant's invention is shown in Figures 1 and 2. Therein, a carriage 6 includes blades 11,14 for gripping a bar deposited on supports 23. Col. 2, lines 7-13 and 18-23. The carriage 6 is slidably translatable along rods 4,5 from a position proximate an upright 3 to a position proximate an upright 2 and back again. Col. 1, line 63 through col. 2, line 3. At an initial position along the rods 4,5 the blades 11,14 may be actuated to grip the bar. Col. 3, lines 63-67. Then, the carriage 6 may transport the bar by slidably translating along the rods 4,5. *Id.* The carriage 6 may then reach a final position where the blades 11,14 are retracted and the bar is released. Col. 4, lines 13-16.

A carriage slidably actuated between an initial gripping position and a final releasing position, as recited in claim 19 and exemplified in one embodiment in the specification, *is not taught or even suggested* by the Werkmeister reference.

As mentioned above, during the interview of 10 November 2003, the Examiner stated that Werkmeister teaches a carriage secured to a carrier but that it was unclear at that time whether the carriage is, in fact, slidably actuated as recited in claim 19. The Examiner stated that clarification of the reference would be required.

After further review of the reference, it is clear that Werkmeister does not teach, or even suggest, the carriage as recited in claim 19.

Turning to the reference, Werkmeister seeks to teach “a device, for feeding bar-shaped work pieces into machine tools, in which the gripping device for clamping the rod-shaped work piece, only has to travel a short distance.” Col. 1, lines 41-44. Werkmeister seeks to overcome the stationary gripping devices of the prior art which are disposed “in the path traveled by the feed member and the bar-shaped workpiece” and thus require an aperture “large enough for the feed member to pass therethrough.” Col. 1, lines 29-31. To address this deficiency, Werkmeister discloses a “gripping device...mounted on a movable gripper carrier which serves to move the jaws of the gripper into or out of the displacement track of the feed member...” Col. 1, lines 44-48. That is, Werkmeister teaches “a gripper support...designed as a carriage which can be raised and lowered.” Col. 2, lines 11-13.

Werkmeister specifically teaches a feed device B as shown in Figures 1 and 2. The device B includes longitudinal carriers 1 which are mounted beneath a magazine 4 that supports the work pieces 43. Col. 2, lines 56-75. That is, the carriers 1 *carry* the magazine 4. “A gripping device [is] pivottally mounted about an axis parallel to and displaced from the axis of the work piece...” *Id.* (Emphasis added.) This gripping device includes a guide member 7 secured to the carrier 1 by screws 6. *Id.* Figure 2 specifically shows an enlarged plan view of the device B including the guide member 7 clearly fixed to the carrier 1 by the screws 6. The fixation of the guide member 7 is again

shown, in cross-section, in Figure 5. Clearly, the guide member 7 is fixed to the carrier 1 and is not capable of any longitudinal motion relative thereto.

The guide member 7 includes a carriage 9 having a gripping jaw 22 for gripping the work piece 43. *Id.* “A solenoid 26, [is] provided to raise and lower the carriage 9...” Col. 3, lines 15-16. That is, the carriage 9 is fixed to the guide member 7 and capable of vertical movement relative thereto. Since, as discussed above, the guide member 7 is fixed to the carrier 1 and incapable of slidable, translatory motion relative thereto, then the carriage 9 is necessarily incapable of slidable, translatory motion along the carrier 1.

Operation of the device B is described by Werkmeister at column 3, lines 38-42: “To lay the work piece 43 in its machining position, first of all the solenoid 26 is operated which raises the carriage 9 by means of the links 27 and the angled lever 18, thereby moving the jaws 22, such that the axis of the work piece 43 lies between the jaws [22].” A magnet/solenoid 33 is then activated to close the jaws 22, thereby engaging the work piece 43. Col. 3, lines 42-47. A feed clamp 45 is then pushed onto the end of the work piece 43 by a feed member 44. Col. 3, lines 47-48. The solenoids 33 and 26 are then deactivated to open jaws 22, thus releasing the work piece 43 and lowering the carriage 9 to move the carriage away from the path of displacement of the feed member 44 and the feed clamp 45. Col. 3, lines 54-57. The feed member 44 then moves the work piece 43 from the area of the carriage 9 to another area for machining. After machining, the feed member 44 returns the work piece to the area of the carriage 9 where the carriage 9 is again raised and the jaws 22 are again closed, as discussed above, to grip the work piece 43. Col. 3, lines 58-65. Once the jaws 22 have gripped the work piece 43, the feed member 44 is moved away from the work piece 43 such that the feed clamp 45 releases the work piece 43. *Id.* Finally, the solenoids 26 and 33 are again deactivated to release the machined work piece 43 and lower the carriage 9. *Id.*

Clearly, the only movement of the Werkmeister carriage 9 is a raising and a lowering relative to the carriers 1 and to the work piece 43. The feed member 43 moves longitudinally to clamp the feed clamp 45 onto the work piece 43 and to displace the work piece 43 to the lathe A for machining. The guide member 7 of Werkmeister is fixed

to the carrier 1 and thus incapable of any longitudinal movement relative to the device B. Thus, necessarily, the carriage 9 fixed to the guide member 7 is also incapable of any longitudinal movement. The carriage 9 simply raises to grip the work piece 43 and hold the piece 43 steady as the feed clamp 45 is forced onto the piece 43 by the feed member 44.

Clearly, Werkmeister fails to teach a carriage being slidably actuated between an initial position and a final position, as recited in claim 19. To the contrary, Werkmeister teaches a carriage 9 which is pivotally raised and lowered relative to the carrier 1 and the deposited work piece 43.

Further, Werkmeister fails to teach a carriage acting between an initial position, where said grip elements are actuated so as to grip the bar deposited thereon and a final position, where said bar is released by said grip elements after inserting the bar in the collet and into the spindle of the automatic lathe, as recited in claim 19. To the contrary, as discussed above, in an initial position, the Werkmeister carriage 9 is disposed *beneath* the work piece 43 *with jaws 22 in the open position*. The carriage 9 is capable of being raised upward into a final position *where the jaws 22 are closed* around the work piece 43. The carriage 9 holds the work piece 43 stationary while the feed member 44 moves the feed clamp 45 onto an end of the work piece 43. That is, in its initial position, the Werkmeister carriage 9 is not “actuated so as to grip the bar deposited thereon”, as required by claim 19. Further, in its final position, the Werkmeister carriage 9 does not release the bar “after inserting the bar in the collet and into the spindle of the automatic lathe”, as also required by Applicant’s claim 19. In fact, the carriage 9 of Werkmeister does not do any *inserting*, but instead simply holds the work piece 43 as the feed member 44 inserts the clamp member 45 onto the end of the work piece 43.

Clearly, Werkmeister fails to teach or suggest all of the claim limitations of Claim 19, thus the outstanding anticipation rejection is improper and may not be maintained. Correspondingly, the anticipation rejections of claims 22, 23, 25, and 26, which variously depend from novel claim 19, are improper and must be withdrawn.

As mentioned above, claims 27-29, 32, and 33 are also rejected under §102(b) as being anticipated by Werkmeister.

Turning to claim 27, a device for the advancement of bars into automatic loaders is recited as comprising, *inter alia*, a “carriage being slidable so as to advance the bar end into the collet..”

As discussed in detail above, Werkmeister does not teach a carriage which is *slidable*, nor a carriage which *advances a bar end into a collet*, as recited in claim 27. The carriage 9 of Werkmeister raises and lowers by pivotal motion and simply holds a work piece 43 stationary as a feed member 44 inserts a clamp member 45 onto an end of the work piece 43. See, discussion above. Accordingly, Werkmeister fails to teach, or even suggest, all of the limitations required by claim 27; thus the outstanding anticipation rejection is improper and may not be maintained. Correspondingly, the anticipation rejections of claims 28, 29, 32, and 33, which variously depend from novel claim 27, are improper and may not be maintained.

Accordingly, for at least the reasons discussed herein, claims 19, 22, 23, 25, 26-29, 32, and 33 are not anticipated by the Werkmeister reference. Reconsideration and withdrawal of the outstanding §102 rejections is respectfully requested.

It is noted that, not only does Werkmeister fails to explicitly teach each and every limitation of the rejected claims, but the reference also fails to implicitly *suggest* the recited limitations. Further, there is no suggestion or motivation in the reference or in the art to modify the teaching of Werkmeister to form the claimed invention. That is, there is no teaching available which would prompt of one of ordinary skill in the art to modify the fixed, longitudinally stationary carrier 9 of Werkmeister to approximate Applicant’s recited slidable carriage capable of inserting/advancing a bar into a collet. Clearly, Werkmeister’s teaches away from Applicant’s recitation. Finally, in lieu of the above, there is no reasonable likelihood of success in modifying Werkmeister to form the claimed invention. Thus, the claims are not *prima facie* obvious in view of Werkmeister.

Accordingly, as claims 19, 22, 23, 25, 26-29, 32, and 33 are not further rejected or objected to, these claims are allowable to Applicant.

#### Rejections Under 35 U.S.C. §103

Claims 24 and 34 are rejected under 35 U.S.C. §103(a) as being obvious over the Werkmeister reference in view of United States Patent No. 5,662,014 to Link.

Claims 24 and 34, however, variously depend from allowable claims 19 and 27, respectively. (For allowability of claims 19 and 27, see discussion above regarding the outstanding §102 rejections.) That is, claims 24 and 34 include all of the respective limitations of claims 19 and 27 and additional limitations and are thus correspondingly allowable. Further, it is noted that Link fails to remedy the deficiencies of Werkmeister addressed above. Accordingly, reconsideration and withdrawal of the outstanding obviousness rejections is respectfully requested.

#### Conclusion

Claims 1-34 are not anticipated nor rendered obvious by the cited references and a Supplemental Reissue Declaration is being submitted under separate cover. Thus the application is in condition for allowance.

The present reply introduces no new matter, as support is found throughout the originally filed specification and claims. No new issues requiring further search and/or consideration are raised herein. The reply complies with objections and requirements as to form expressly set forth in the previous office action and in the Examiner interview conducted on 10 November 2003. The reply places the application in condition for allowance or, in the alternative, the reply places the application in better form for appeal. Thus, in accordance with 37 C.F.R. §1.116 and as per MPEP §714.12, entry and consideration of the present reply is respectfully requested.

The foregoing remarks fully comply with the Office Action and the claims are now allowable to Applicant. Thus, reconsideration of the application, allowance thereof, and passage to issue are respectfully requested.

The Examiner is invited to contact Applicant's attorney at the below-listed telephone number regarding this Response or otherwise concerning the present application.

Applicant hereby petitions for any necessary extension of time required for consideration of the present Response.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

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